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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/824,730	04/15/2004	Philip Jacoby	13237.0001U2	6721
23859	7590	07/17/2006	EXAMINER	
NEEDLE & ROSENBERG, P.C.			CHEVALIER, ALICIA ANN	
SUITE 1000			ART UNIT	
999 PEACHTREE STREET			PAPER NUMBER	
ATLANTA, GA 30309-3915			1772	

DATE MAILED: 07/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/824,730	<b>Applicant(s)</b> JACOBY, PHILIP	
	<b>Examiner</b> Alicia Chevalier	<b>Art Unit</b> 1772	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 April 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 10-24 is/are pending in the application.
- 4a) Of the above claim(s) 11 and 17-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 10 and 12-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 September 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                                                           |                                                                                         |
|-------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                                                          | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                                      | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>1/3/06</u> | 6) <input type="checkbox"/> Other: _____                                                |

9/2/05  
8/11/04

### **DETAILED ACTION**

1. Claims 10-24 are pending in the application, claims 11 and 17-24 are withdrawn from consideration. Claims 1-9 have been cancelled.
2. Amendments to claims, filed on January 4, 2005, have been entered in the above-identified application.

#### ***Election/Restrictions***

3. Applicant's election with traverse of Group I, claims 10 and 12-16 in the reply filed on April 25, 2006 is acknowledged. The traversal is on the ground(s) that the search and examination of the entire application can be made without serious burden in the matter. This is not found persuasive because the search required for Group I is not required for Group II or Group III and vice versa for all Groups, restriction for examination purposes as indicated is proper.

The requirement is still deemed proper and is therefore made FINAL.

4. Claims 11 and 17-24 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected non-elected inventions, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on April 25, 2006.

#### ***Drawings***

5. The drawings were received on September 7, 2005. These drawings are accepted.

***Specification***

6. The abstract of the disclosure is objected to because it exceeds 150 words. Correction is required. See MPEP § 608.01(b).

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 10 and 12-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mercer (U.S. Patent No. 4,374,798) in view of Jacoby et al. (U.S. Patent No. 5,310,584).

Mercer discloses a polypropylene web comprising a perforated sheet (*figures 1 and 2*) that is biaxially oriented and wherein the web has thickness in the node junction region between the machine direction and transverse direction strands (*col. 2, lines 35-60*).

Mercer fails to disclose a polypropylene web comprising a propylene polymer comprising beta-spherulites in an amount sufficient to produce a K-value of about 0.2 to 0.95 when measured by x-ray diffraction or to show a beta crystalline melting peak during the first or second heating scan when measured using a differential scanning calorimeter.

Jacoby discloses a polypropylene sheet (title) comprising a propylene polymer comprising beta-spherulites in an amount sufficient to produce a K-value of about 0.2 to 0.95 (*col. 3, lines 15-18*). The sheet exhibits improved sidewall strength, reduced warp, improved low-temperature impact resistance etc. (*col. 3, lines 20-30*).

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It would have been obvious to one of ordinary skill in the art at the time of the invention to use Jacoby's polypropylene material as the polypropylene material in Mercer in order to improve the strength of the sheet.

The limitations "can be run at line speeds ..." and "at least 10% less than that of a biaxially oriented web made from an extruded sheet with no added beta nulceant and the same starting sheet thickness" are functional limitations and are deemed to be a latent property of the prior art since the prior art is substantially identical in composition and/or structure. MPEP 2145 (II).

The limitation "extruded" is a method limitation and does not determine the patentability of the product, unless the process produces unexpected results. The method of forming the product is not germane to the issue of patentability of the product itself, unless Applicant presents evidence from which the Examiner could reasonably conclude that the claimed product differs in kind from those of the prior art. MPEP 2113.

### ***Conclusion***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia Chevalier whose telephone number is (571) 272-1490. The examiner can normally be reached on Monday through Friday from 8:00 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon, can be reached on (571) 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ac  
7/10/06

  
**ALICIA CHEVALIER**  
**PRIMARY EXAMINER**